

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

CYNTHIA GUERRERO AND DAMARIS E.
TYLER, INDIVIDUALLY AND ON BEHALF
OF ALL OTHERS SIMILARLY SITUATED,
Plaintiffs,

v.

HABLA COMUNICACIONES, INC. D/B/A
HABLA COMUNICACIONES, INC.,
Defendant.

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Civil Action H-05-3620

ORDER APPROVING NOTICE


It is hereby

ORDERED that notice of this collective action in the form attached hereto is approved. It is further

ORDERED that for statute of limitation purposes, a claim will be considered filed as of the date plaintiffs' counsel received it. Therefore, it is ordered that plaintiffs' motion to equitably toll the statute of limitations (Dkt. 33) is denied. It is further

ORDERED that plaintiffs' counsel shall keep a log of the Notices of Consent he receives. At the end of the consent period (60 days after mailing the notice), plaintiffs' counsel shall serve defendant with a copy of the log and file it with the court.

Signed at Houston, Texas on May 15, 2006.



Stephen Wm. Smith
United States Magistrate Judge

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TYLER, INDIVIDUALLY AND ON BEHALF	§	
OF ALL OTHERS SIMILARLY SITUATED,	§	
<i>Plaintiffs,</i>	§	
v.	§	Civil Action H-05-3620
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<i>Defendant.</i>	§	

NOTICE OF RIGHTS REGARDING OVERTIME PAY

TO: All current and former employees of Habla Comunicaciones, Inc., d/b/a Habla Comunicaciones, Inc. ("HABLA") who were paid on an hourly basis at any time between October 20, 2002 and the present.

RE: Fair Labor Standards Act ("FLSA") lawsuit against HABLA.

1. PURPOSE OF THIS NOTICE

The purpose of this notice is to inform hourly paid employees of HABLA of their right to join this lawsuit claiming wages due for unpaid overtime. This case was filed by Cynthia Guerrero and Damaris E. Tyler (together, "Plaintiffs"). Plaintiffs worked for HABLA and were paid an hourly rate. They allege that HABLA did not pay them or its other hourly paid employees overtime at time and a half for all hours worked in excess of 40 in a work week. For those unpaid hours worked in excess of forty in a particular work week, Plaintiffs seek to recover this additional compensation at one-half their hourly rate. Plaintiffs also seek additional damages equal to their unpaid wages. Plaintiffs also seek to recover their attorneys' fees from HABLA under the federal law that applies to this type of lawsuit.

This notice is for the sole purpose of determining the identity of those persons who wish to be involved in this lawsuit. Although the Court has authorized the sending of this Notice, there is no assurance at this time that the Court will grant any back wages or other relief through this lawsuit.

2. HOW TO PARTICIPATE

Enclosed you will find a form entitled “Notice of Consent.” If you decide to join this lawsuit, and thus participate in any recovery that may result from this lawsuit, it is extremely important that you read, sign, and return the “Notice of Consent” form to the Plaintiffs’ attorney, Galvin Kennedy, Kennedy Hodges, L.L.P., 3701 Kirby Dr., Suite 400, Houston, Texas 77098 on or before _____ (*60 days after mailing*). An addressed, stamped envelope is enclosed for your convenience.

It is entirely your own decision whether or not to join this lawsuit and, if you do elect to become a party plaintiff, whether you prefer to be represented by the Plaintiffs’ attorney or by an attorney of your choosing.

If you do not file a Notice of Consent form and join in this case, you will not receive any back wages for overtime or other relief through this lawsuit even if Plaintiffs settle or win the case. However, any such relief could be obtained by you if you brought an independent actions within the time provided by law. **You must file a Notice of Consent to join this action if you wish to recover unpaid overtime wags from this lawsuit.**

If you have questions about this suit or your rights or wish for Plaintiffs’ attorney, Galvin Kennedy, to represent you, you may contact him at (713) 523-0001 or (877) 342-2020.

3. EFFECT OF JOINING THIS LAWSUIT

If you join this lawsuit by filing your consent, you may be required to respond to written questions, provide documents, give deposition testimony, and/or participate in hearings and/or testify at the trial of this lawsuit in Houston, Texas. By joining this lawsuit, you are consenting to have U.S. Magistrate Judge Stephen Wm. Smith conduct all proceedings in the case, including trial and final judgment. If you join the lawsuit, you will be bound by the judgment of the Court on all issues in the case, whether it is favorable or unfavorable to you.

4. HABLA CANNOT RETALIATE AGAINST YOU

HABLA is prohibited from taking any action against you in retaliation for joining this lawsuit.

5. UNDOCUMENTED WORKERS HAVE RIGHTS UNDER THE LABOR LAW

The FLSA covers employees who are citizens of other countries even if such employees do not have valid social security numbers or are undocumented. Undocumented workers are entitled to recover any unpaid overtime pay under the law.

THIS NOTICE HAS BEEN AUTHORIZED BY THE FEDERAL DISTRICT COURT, U.S. MAGISTRATE JUDGE STEPHEN WM. SMITH. THE COURT HAS TAKEN NO POSITION IN THIS CASE REGARDING THE MERITS OF THE PLAINTIFFS' CLAIMS OR DEFENDANT'S DEFENSES.

Cynthia Guerrero and Damaris E. Tyler,
Plaintiffs

By: _____
Galvin B. Kennedy and
Kevin M. Chavez
Attorneys for Plaintiffs
Kennedy Hodges, LLP
3701 Kirby Dr., Suite 400
Houston, Texas 77098
Telephone: (713) 523-0001

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NOTICE OF CONSENT

I want to join this collective action lawsuit to recover unpaid overtime that I might be owed. I, the undersigned, a current or former hourly paid employee of Habla Comunicaciones, Inc. d/b/a Habla Comunicaciones, Inc., hereby consent to participate in a collective action against Habla Comunicaciones, Inc. d/b/a Habla Comunicaciones, Inc. By joining this collective action, I (***check one***):

- ☐ choose to be represented by Plaintiffs Cynthia Guerrero's and Damaris Tyler's ("Plaintiffs") counsel, Galvin B. Kennedy, of Kennedy Hodges, L.L.P. (and other attorneys with whom they may associate in this collective action) and designate Plaintiffs as my representatives, and to the fullest extent possible, to make decisions on my behalf concerning the case, the method and manner of conducting the case, the entering of an agreement with Plaintiffs counsel regarding payment of attorneys' fees and court costs, and all other matters pertaining to this collective action; or
- ☐ choose to be represented by other counsel as follows:

(insert attorney name, address, and phone number)

Full Name (print)

Street Address

City State Zip Code

Telephone

I UNDERSTAND THAT BY SIGNING THIS FORM I ALSO CONSENT TO THE
EXERCISE OF JURISDICTION OVER THIS CASE BY MAGISTRATE JUDGE
STEPHEN WM. SMITH.

Signature

Date